

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

FILED BY CLERK

FEB 27 2007

COURT OF APPEALS
DIVISION TWO

IN RE GUILLERMO V.

) 2 CA-JV 2006-0039

) DEPARTMENT B

) MEMORANDUM DECISION

) Not for Publication

) Rule 28, Rules of Civil

) Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. 14411601

Honorable Kathleen Quigley, Judge Pro Tempore

AFFIRMED

Barbara LaWall, Pima County Attorney

By Dale Cardy

Tucson
Attorneys for State

Robert J. Hooker, Pima County Public Defender

By Susan C. L. Kelly

Tucson
Attorneys for Minor

E S P I N O S A, Judge.

¶1 After admitting he had committed sexual assault of a minor under the age of fifteen as alleged in an amended delinquency petition, Guillermo V. was adjudicated delinquent in December 2005 and placed on supervised probation until his eighteenth birthday. Although the juvenile court did not initially require Guillermo to register as a sex

offender, it did so in a subsequent order entered after a probation review hearing in June 2006. Guillermo challenges that ruling on appeal, contending the juvenile court abused its discretion in requiring him to register as a sex offender until his twenty-fifth birthday.

¶2 First, we agree with the state that, to the extent Guillermo is contending the juvenile court could not enter the order in June 2006 after having entered the disposition order in December 2005, he is not entitled to relief. Clearly, the court was considering requiring Guillermo to register as a sex offender at the disposition hearing. But the prosecutor asked the court to “hold off . . . to see how he does on his probation.” Given that Guillermo would turn eighteen in July, the prosecutor asked that the status hearing be set before then. Defense counsel stated she did not disagree, and the court so ordered, setting a status hearing in June. Essentially, the court delayed deciding this portion of the disposition. The court had authority to enter the order, and Guillermo has not persuaded us otherwise. *See* A.R.S. § 13-3821(D); *see generally* A.R.S. § 8-202(G).

¶3 Second, the juvenile court did not abuse its discretion in ordering Guillermo to register as a sex offender. *See In re Sean M.*, 189 Ariz. 323, 324, 942 P.2d 482, 483 (App. 1997) (reviewing disposition of juvenile adjudicated delinquent for clear abuse of discretion and finding juvenile court did not exceed its statutory authority by requiring juvenile to register as sex offender despite misunderstanding community would be notified of registration); *see also In re Maricopa County Juvenile Action No. 510312*, 183 Ariz.

116, 119, 901 P.2d 464, 467 (App. 1995) (juvenile court has broad discretion in determining appropriate disposition of juvenile adjudicated delinquent).

¶4 At the disposition hearing, the court's comments made it clear it was taking all relevant factors into consideration in deciding the appropriate disposition of Guillermo, including whether he should be required to register as a sex offender. And, at the beginning of the June status conference, the court stated it wanted to carefully consider all testimony, "give full consideration to everything," and "read all the reports over again . . . before . . . mak[ing a] final decision." The probation officer, the prosecutor, and the mother of the victim recommended that Guillermo be required to register. The prosecutor maintained there was insufficient time for him to complete therapy before the court lost jurisdiction over him. Although the therapist testified Guillermo was doing well and presented a low risk of reoffending, she stated she usually needed eighteen months to complete sex offender treatment and had only begun therapy with Guillermo in March. As noted above, his eighteenth birthday was in July.

¶5 Additionally, the court permitted evidence that Guillermo had failed two polygraph tests, although the therapist stated his nervousness could have contributed to the results. In any event, the juvenile court stated it was not placing great weight on the polygraph tests. The court clearly weighed all the circumstances, as well as the public's need for protection, and took the matter under advisement. Guillermo had forced the fourteen-year-old victim to have sexual intercourse with him against her will and despite her

resistance. Under these circumstances, we cannot say the court's decision was an abuse of discretion. *See Sean M.*, 189 Ariz. at 324, 942 P.2d at 483.

¶6 The juvenile court's orders adjudicating Guillermo delinquent and requiring that he register as a sex offender until the age of twenty-five are affirmed.

PHILIP G. ESPINOSA, Judge

CONCURRING:

PETER J. ECKERSTROM, Presiding Judge

J. WILLIAM BRAMMER, JR., Judge